

Order

Entered:

July 1, 2003

2002-46

Amendment of Rules 7.304, 9.114, and
9.122 of the Michigan Court Rules

Michigan Supreme Court Lansing, Michigan

Maura D. Corrigan,
Chief Justice

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Clifford W. Taylor
Robert P. Young, Jr.
Stephen J. Markman,
Justices

On order of the Court, notice of the proposed changes and an opportunity for comment in writing and at a public hearing having been provided, and consideration having been given to the comments received, the following amendments of Rules 7.304, 9.114, and 9.122 are adopted, effective September 1, 2003.

[The present language is amended as indicated below.]

Rule 7.304 Original Proceedings

- (A) When Available. A complaint may be filed in the Supreme Court to implement the Court's superintending control power when an application for leave to appeal cannot be filed. A complaint ~~for mandamus~~ may be filed to implement the Court's superintending control power over the Board of Law Examiners, the Attorney Discipline Board, or the Attorney Grievance Commission.
- (B) [Unchanged.]
- (C) Answer.
 - (1) [Unchanged.]
 - (2) The grievance administrator's answer to a complaint ~~for mandamus~~ against the Attorney Grievance Commission must show the investigatory steps taken and other pertinent information.
- (D) [Unchanged.]

(E) [Unchanged, but see proposal in ADM File No. 2002-40.]

Rule 9.114 Action by Administrator or Commission After Answer

(A) [Unchanged.]

(B) [Unchanged.]

(1)- (3) [Unchanged.]

(4) The placing of a respondent on contractual probation shall constitute a final disposition that entitles the complainant to notice in accordance with MCR 9.114(D), and to file an ~~a mandamus~~ action in accordance with MCR 9.122(A)(2).

(C) - (E) [Unchanged.]

Rule 9.122 Review by Supreme Court

(A) Kinds Available; Time for Filing.

(1) [Unchanged.]

(2) If a request for investigation has been dismissed under MCR 9.112(C)(1) or 9.114(A), a party aggrieved by the dismissal may file a complaint ~~for mandamus~~ in the Supreme Court under MCR 7.304.

(B) - (E) [Unchanged.]

Staff Comment. The July 1, 2003, amendments of MCR 7.304, 9.114, and 9.122, effective September 1, 2003, clarified that a complaint for mandamus is inappropriate in instances where a party really is asking the Supreme Court to exercise its power of superintending control over the Board of Law Examiners, the Attorney Discipline Board, or the Attorney Grievance Commission.

The staff comment is published only for the benefit of the bench and bar and is not an authoritative construction by the Court.



I, CORBIN R. DAVIS, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

July 1, 2003 Corbin R. Davis

Clerk